

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, TYLER MAGILL, APRIL
MUNIZ, HANNAH PEARCE, MARCUS
MARTIN, JOHN DOE, JANE DOE 1, JANE
DOE 2, and JANE DOE 3,

Plaintiffs,

v.

JASON KESSLER, RICHARD SPENCER,
CHRISTOPHER CANTWELL, JAMES
ALEX FIELDS, JR., VANGUARD
AMERICA, ANDREW ANGLIN,
MOONBASE HOLDINGS, LLC, ROBERT
“AZZMADOR” RAY, NATHAN DAMIGO,
ELLIOT KLINE a/k/a/ ELI MOSELY,
IDENTITY EVROPA, MATTHEW
HEIMBACH, MATTHEW PARROTT a/k/a
DAVID MATTHEW PARROTT,
TRADITIONALIST WORKER PARTY,
MICHAEL HILL, MICHAEL TUBBS,
LEAGUE OF THE SOUTH, JEFF SCHOEP,
NATIONAL SOCIALIST MOVEMENT,
NATIONALIST FRONT, AUGUSTUS SOL
INVICTUS, FRATERNAL ORDER OF THE
ALT-KNIGHTS, MICHAEL “ENOC”
PEINOVICH, LOYAL WHITE KNIGHTS OF
THE KU KLUX KLAN, and EAST COAST
KNIGHTS OF THE KU KLUX KLAN a/k/a
EAST COAST KNIGHTS OF THE TRUE
INVISIBLE EMPIRE,

Defendants.

Civil Action No. 3:17-cv-00072-NKM

JURY TRIAL DEMANDED

**PLAINTIFFS’ MOTION TO STRIKE DEFENDANT LOYAL WHITE KNIGHTS OF
THE KU KLUX KLAN’S ANSWER**

PRELIMINARY STATEMENT

In documents dated November 28 and 29, 2017, Amanda Barker, purporting to act on behalf of the Loyal White Knights of the Ku Klux Klan (the “Loyal White Knights of the KKK”), filed an untimely, two-page “response” to Plaintiffs’ Complaint. The “response” includes only a general denial of the 347-paragraphs of allegations in the Complaint and threat to sue Plaintiffs and their attorneys. But this purported response is a legal nullity.

As an unincorporated association, the Loyal White Knights of the KKK cannot proceed *pro se* and must be represented by a licensed attorney. Ms. Barker is not an attorney and thus cannot answer on behalf the Loyal White Knights of the KKK. In doing so, Ms. Barker violated Supreme Court authority and Virginia State Bar rules. Accordingly, Plaintiffs respectfully request that the response be struck.

FACTS

Plaintiffs filed their Complaint on October 12, 2017. ECF No. 1. Defendant Loyal White Knights of the KKK was personally served on October 24, 2017. ECF No. 56. Its deadline to respond to Plaintiffs’ Complaint was November 14, 2017. *Id.* Two weeks after its deadline to respond, Amanda Barker, the self-described “Imperial Kommander” of the Loyal White Knights of the KKK, signed a “Response to Summons” on behalf of herself, her husband Chris Barker, and the Loyal White Knights of the KKK. ECF No. 146. That “response” contained a general denial of Plaintiffs’ allegations and an expression of intent to sue Plaintiffs and Plaintiffs’ counsel. *Id.*

In the response, Ms. Barker does not purport to be an attorney. Indeed, Plaintiffs' counsel searched the Virginia State Bar attorney search page, and conducted an online review, and found no evidence that Ms. Barker is licensed to practice law in this, or any other state.¹

ARGUMENT

I. THE LOYAL WHITE KNIGHTS OF THE KKK MAY NOT APPEAR PRO SE IN THIS ACTION

The Supreme Court has made clear that, “for the better part of two centuries,” the law has not allowed “corporations, partnerships, or associations to appear in federal court otherwise than through a licensed attorney.” *Rowland v. California Men’s Colony, Unit II Men’s Advisory Council*, 506 U.S. 194, 201-2, 113 S.Ct. 716 (1993). As Chief Justice Marshall explained, “a natural person may appear for himself,” but “[a] corporation . . . can appear only by attorney.” *Osborn v. Bank of the United States*, 22 U.S. (9 Wheat.) 738, 830 (1824). This rule was codified by the Supreme Court of Virginia in its State Bar Rules of Professional Conduct. Va. R.S.Ct., pt. 6 § 1 UPR 1–101, UPC 1–3 (“A corporation can be represented only by a lawyer before a tribunal, with respect to matters involving legal conclusions, examination of witnesses or preparation of briefs or pleadings.”).

The Loyal White Knights of the KKK is an unincorporated association pursuant to Virginia Code § 8.01-154, formed for the common purpose of promoting white nationalism and white supremacy. Compl. ¶ 44. Its purported representative, Amanda Barker, does not indicate that she is an attorney, and Plaintiffs’ reasonable investigation discloses no evidence that she is licensed to practice law in Virginia. The Loyal White Knights of the KKK therefore appears to

¹ In particular, Plaintiffs’ counsel searched the state bar directories of Virginia and North Carolina (where we understand the Barkers and the Loyal White Knights of the KKK to be located), and conducted Google searches for attorneys named Amanda Barker. Neither resulted in any evidence that Ms. Barker is admitted to practice law.

be attempting to proceed *pro se*. As an artificial entity, it is not permitted to do so. *See id.*; *In re Under Seal*, 749 F.3d 276, 290 (4th Cir. 2014) (“As a limited liability company, [a party] should not have been permitted to proceed at all.”).

II. THE COURT SHOULD STRIKE THE LOYAL WHITE KNIGHTS OF THE KKK’S PURPORTED “RESPONSE TO SUMMONS”

Because the “Response to Summons” was filed by a representative unlicensed to practice law, it should be struck. Both this Court and the Fourth Circuit have recognized that this is an appropriate remedy in such a circumstance. *Office Parks of Lynchburg, LLC v. Wells Fargo Bank, N.A.*, Case No. 12 Civ. 0034, 2012 WL 4325567 (W.D. Va. Sept. 20, 2012) (Moon, J.) (striking organizational plaintiff’s complaint because it lacked standing to proceed *pro se*); *see also Allied Colloids, Inc. v. Jadair, Inc.*, 139 F.3d (4th Cir. 1998) (affirming finding of default judgment following district court’s order that “unless [the organizational defendant] files a proper response” through duly authorized counsel, “it will be found in default”). As this Court has observed, “[a] business entity or corporation involved in Virginia must be represented by an attorney licensed to practice in Virginia.” *Office Parks of Lynchburg, LLC*, 2012 WL 4325567, at *3. So, too, must the Loyal White Knights of the KKK be represented by counsel.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully submit that the Court (1) strike Defendant Loyal White Knights of the KKK's "Response to Summons" and (2) order that within fourteen (14) days of the entry of the Court's order granting this motion, Defendant Loyal White Knights of the KKK shall file a proper responsive pleading through duly authorized Virginia counsel and that if Defendant Loyal White Knights of the KKK fails to do so, it shall be in default.

Dated: December 15, 2017

Respectfully submitted,

s/ Robert T. Cahill

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CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2017, I filed the foregoing with the Clerk of Court through the CM/ECF system, which will send a notice of electronic filing to:

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I further hereby certify that on December 15, 2017, I also served the following non-ECF participant, via e-mail:

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I further hereby certify that on December 15, 2017, I also served the following non-ECF participant, via U.S. mail, First Class and postage prepaid, addressed as follows:

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c/o Chris and Amanda Barker
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s/ Robert T. Cahill

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